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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/711,965	10/15/2004	Fred Bishop	54022.1417	5964
20222 7590 08/18/2008 SNELL & WILMER L.L.P. (Main) 400 EAST VAN BUREN ONE ARIZONA CENTER PHOENIX, AZ 85004-2202				
EXAMINER				
ELISCA, PIERRE E				
ART UNIT		PAPER NUMBER		
3621				
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08/18/2008		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/711,965

Applicant(s)

BISHOP ET AL.

Examiner

Pierre E. Elisca

Art Unit

3621

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 25 January 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-4, 10-14, 17-20, 22 and 24-29 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-4, 10-14, 17-20, 22 and 24-29 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

1. The finality in the office action mailed March 28, 2008 is hereby withdrawn. This communication is in response to Applicant's amendment filed 01/25/2008. As per our telephone conversation conducted on 05/29/2008, the cited reference Wankmueller U.S. Pat. No. 7,287,695 is hereby withdrawn and a newly found prior art is provided.
2. Claims 1-4, 10-14, 17-20, 22, 24-29 are currently pending.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1-4, 10-14, 17-20, 22, and 24-29 are rejected under 35 U.S.C. 103 (a) as being unpatentable over Zalewski et al U.S. Pat. No. 6,771,981 in view of **Ruppert et al. (U.S. Pat. No. 5,640,002)**.

As per claims 1, 3, 4, 10-14, 17-20, 22 and 24-29 Zalewski substantially discloses a system for making payments, comprising at least one mobile station using a radio frequency (RF), the system comprising:

Receiving user account data from a transaction application stored on a RF module for use in transaction completion, the RF module in physical and logical communication with a mobile device microprocessor, providing secondary identification to the mobile

device microprocessor in response to a request for secondary identification for end user authentication, the request for secondary identification being provided to an end user via a mobile device user interface, the secondary identification being one of voice recognition data, biometric recognition data and alphanumeric data, and processing the user account data for transaction completion (see., abstract, col 1-col 16).

Zalewski fails to explicitly disclose Applicant's newly added limitations of reading a decryption key associated with the RF ID code, and using the decryption key to decrypt the encrypted authentication code. Ruppert discloses a system for conducting financial transactions using encryption/decryption key associated **with a RF ID tag (or code)** [see., Ruppert, figs 19, 39-41, col 36, lines 38-67, col 13-col 46, blocks 629, 743, 745, 753, 759].

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify the radio frequency of Zalewski by including the limitations detailed above as taught by Ruppert because this would provide a more secure manner of conducting a payment transaction.

As per claim 2 Zalewski discloses the claimed method wherein said receiving the user account data from the RF module, where the user account data is provided subsequent to authentication of an end user secondary identifier, the secondary identifier being provided for authentication by the end user at the a mobile device interface (see., abstract, col 1-col 8).

5. Claims 1-4, 10-14, 17-20, 22, and 24-29 are rejected under 35 U.S.C. 103 (a) as being unpatentable over **Pond et al** U.S.PG Pub20040030601 in view of **Ruppert et al. (U.S. Pat. No. 5,640,002)**.

As per claims 1-4, 10-14, 17-20, 22, and 24-29 **Pond** discloses an electronic payment methods for mobile device using a radio frequency (RF) transponder, the system comprising:

Receiving user account data from a transaction application stored on a RF module for use in transaction completion, the RF module in physical and logical communication with a mobile device microprocessor, providing secondary identification to the mobile device microprocessor in response to a request for secondary identification for end user authentication, the request for secondary identification being provided to an end user via a mobile device user interface, the secondary identification being one of voice recognition data, biometric recognition data and alphanumeric data, and processing the user account data for transaction completion (see., abstract, paragraph, 0017), [0083], [0122], [0123], [0144]).

Pond fails to explicitly disclose Applicant's newly added limitations of reading a decryption key associated with the RF ID code, and using the decryption key to decrypt the encrypted authentication code. Ruppert discloses a system for conducting financial transactions using encryption/decryption key associated with a RF ID tag (or code) [see., [see., Ruppert, figs 19, 39-41, col 36, lines 38-67, col 13-col 46, blocks 629, 743, 745, 753, 759]. Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify the radio frequency of Pond by

including the limitations detailed above as taught by Ruppert because this would provide a more secure manner of conducting a payment transaction.

RESPONSE TO ARGUMENTS

6. Applicant's arguments with respect to claims 1-4, 10-14, 17-20, and 22 have been fully considered but they are moot in view of new ground (s). **Necessitated by amendment filed on 01/25/2008.**

REMARKS

7. In response to Applicant's arguments, Applicant argues that it was inappropriate to make this office action final because of this inappropriate rejection and the inappropriate use of Wankmueller. However, the Examiner respectfully disagrees with this assertion because the final office is appropriate due to Applicant's amendment filed on 01/25/2008.

b. Applicant also maintains that the Examiner did not address, among other things, the following elements of the independent claims:

verifying the authentication transmission (claim 1). (see., Zalewski, col 10, lines 40-67, transponder interrogator).

c. a transaction application located in an RF module, wherein the transaction application comprises a first mobile device authentication routine, a second mobile device (see., Zalewski, claim 1 mobile devices) authentication routine, and an account data transmission routine configured to be responsive to the second mobile device

authentication routine, and RF transponder configured to transmit the secondary identification code (see., Zalewski, col 8, lines 13-21, col 9, lines 21-39, RFID tag, and the transaction application, see., col 4, lines 52-67, col 5, lines 1-59).

d. transmitting the secondary end-user authentication identification via an RF transponder (see., col 8, lines 13-21, col 9, lines 21-39).

e. receiving the mobile device account data via a mobile device universal serial bus (see., fig 2A, col 8, lines 13-21, col 9, lines 21-67).

f. Receiving the user account data after the authentication of the secondary end-user authentication identification (see., col 8, lines 13-21, col 9, lines 21-67).

g. wherein the secondary authentication user interface comprises a biometric authentication user interface (see., Ruppert, portable barcode/RFID tag or RFID tags with voice is readable as a biometric code, such as voice or finger print).

h. at a radio frequency (RF) reader, wherein the using of the decryption key to decrypt the encrypt authentication code comprises using the unique decryption key to decrypt the encrypt the encrypted authentication code (Ruppert discloses a system for conducting financial transactions using encryption/decryption key associated **with a RF ID tag (or code)** [see., Ruppert, figs 19, 39-41, col 36, lines 38-67, col 13-col 46, blocks 629, 743, 745, 753, 759]).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify the radio frequency of Zalewski by including the limitations detailed above as taught by Ruppert because this would provide a more secure manner of conducting a payment transaction.

Conclusion

8. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Pierre E. Elisca whose telephone number is 571 272 6706. The examiner can normally be reached on 6:30 to 5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Andrew Fischer can be reached on 571 272 6779. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3621

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/ Pierre E. Elisca/
Primary Examiner, Art Unit 3621